

# Workman Nydegger

1000 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111  
Phone: (801) 533-9800  
Fax: (801) 328-1707

RECEIVED  
CENTRAL FAX CENTER  
JUN 08 2006

## FAX TRANSMISSION COVER SHEET

---

Date: June 8, 2006  
To: United States Patent and Trademark Office  
Fax: 571-273-8300  
Phone: 571-272-1000  
Re: U.S. Patent Application Serial No: 10/697,395  
Our Docket No.: 15436.247.11.1  
Sender: Tobi A. Terry, Paralegal to Eric L. Maschoff

---

YOU SHOULD RECEIVE 7 PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL 801-533-9800

---

*Please see attached documents*

---

### PRIVILEGED AND CONFIDENTIAL

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

RECEIVED  
CENTRAL FAX CENTER

**STATEMENT UNDER 37 CFR 1.97(e) ACCOMPANYING  
INFORMATION DISCLOSURE STATEMENT**

JUN 08 2006

Docket No.  
15436.247.11.1

In Re Application Of:

Hofmeister et al.

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/697,395	10/30/2003	Kenneth J. Malkowski	022913	2633	7465

Invention:

**AUTOMATIC SELECTION OF DATA RATE FOR OPTOELECTRIC DEVICES**

COMMISSIONER FOR PATENTS:

This is a statement under the provisions of 37 CFR 1.97(e) in the above-identified application.

Check applicable statement herebelow:

**Statement Under 37 CFR 1.97(e)(1)**

- ☒ Each item of information contained in the accompanying Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the Information Disclosure Statement.

**Statement Under 37 CFR 1.97(e)(2)**

- ☐ No item of information contained in the accompanying Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned person, after making reasonable inquiry, no item of information contained in the accompanying Information Disclosure Statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the Information Disclosure Statement.



Signature

Eric L. Maschoff  
Attorney for Applicant  
Reg No: 36,596

Dated: June , 2006

**Certificate of Mailing by First Class Mail**

I certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

(Date)

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

cc:

P10C/REV03

RECEIVED  
CENTRAL FAX CENTER

JUN 08 2006

FILED VIA FACSIMILE

PATENT APPLICATION  
Docket No.: 15435.247.11.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:		)
		)
	Hofmeister, et al	)
		)
Serial No.:	10/697,395	) Art Unit
		) 2633
Filed:	October 30, 2003	)
		)
Confirmation No.:	7465	)
		)
For:	AUTOMATIC SELECTION OF DATA	)
	RATE FOR OPTOELECTRONIC	)
	DEVICES	)
		)
Customer No:	022913	)
		)
Examiner:	Kenneth J. Malkowski	)

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT  
UNDER 37 C.F.R. § 1.97

Mail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Please find, pursuant to 37 C.F.R. § 1.98(a)(1), the enclosed Form PTO-1449 which contains a list of all patents, publications, or other items that have come to the attention of one or more of the individuals designated in 37 C.F.R. § 1.56(c). While no representation is made that any of these references may be "prior art" within the meaning of that term under 35 U.S.C. §§ 102 or 103, the enclosed list of references is disclosed so as to fully comply with the duty of disclosure set forth in 37 C.F.R. § 1.56.

Moreover, while no representation is made that a specific search of office files or patent office records has been conducted or that no better art exists, the undersigned attorney of record believes that the enclosed art is the closest to the claimed invention (taken in its entirety) of which the undersigned is presently aware, and no art which is closer to the claimed invention (taken in its entirety) has been knowingly withheld.

Since all listed references are either in the English language or are accompanied by a translation into English, no concise explanation of relevance is required under 37 C.F.R. § 1.98(a)(3).

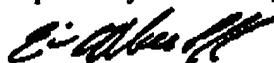
STATEMENT UNDER 37 CFR 1.97(e)(1)

Each item of information contained herein was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this information disclosure statement, therefore, no fee is believed to be due.

Please credit any over payment or charge any additional fees to Deposit Account No. 23-3178 of the undersigned.

Dated this 8 day of June, 2006

Respectfully submitted,



Eric L. Maschoff  
Attorney for Applicant  
Registration No. 36,596  
Customer No. 022913

ELM/tat  
W:\15436\247.1\1\TAT0000000594V001.doc

RECEIVED  
CENTRAL FAX CENTER  
JUN 08 2006

## FILED VIA FACSIMILE

Form PTO-1449

Sheet 1 of 2

Applicant: Hofmeister, et al.

Serial No.: 10/697,395

Att'y Docket No.: 15430.247.11.1

Filing Date: October 30, 2003

Group: 2633

Confirmation No.: 7465

For: AUTOMATIC SELECTION OF DATA RATE FOR OPTOELECTRIC  
DEVICESSUPPLEMENTAL INFORMATION DISCLOSURE CITATIONS MADE BY APPLICANTU.S. Patent Documents

<u>Examiner</u> <u>Initial*</u>	<u>Document</u> <u>Number</u>	<u>Issue/Publication</u> <u>Date</u>	<u>Name</u>
1	2003/0002108 A1	01/02/2003	Ames et al.

Foreign Patent Documents

NONE

Other Documents

(including author, title, pertinent pages, etc.)

Examiner

Initial\*

NONE

Examiner:

Date Considered:

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 603; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

## FILED VIA FACSIMILE

Form PTO-1449

Sheet 2 of 2

Applicant: Hofmeister, et al.

Serial No.: 10/697,395

Att'y Docket No.: 15436/247.11.1

Filing Date: October 30, 2003

Group: 2633

Confirmation No.: 7465

For: AUTOMATIC SELECTION OF DATA RATE FOR OPTOELECTRIC  
DEVICES

---

**References Cited by Applicants**

While the filing of Information Disclosure Statements is voluntary, the procedure is governed by the guidelines of Section 609 of the Manual of Patent Examining Procedure and 37 C.F.R. §§ 1.97 and 1.98. To be considered a proper Information Disclosure Statement, Form PTO-1449 shall be accompanied by a copy of each listed patent or publication or other item of information and a translation of the pertinent portions of foreign documents (if an existing translation is readily available to the applicant), an explanation of relevance of each reference not in the English language, and should be submitted in a timely manner as set out in MPEP Sec. 609.

Examiners will consider all citations submitted in conformance with 37 C.F.R. § 1.98 and MPEP Sec. 609 and place their initials adjacent the citations in the spaces provided on this form. Examiners will also initial citations not in conformance with the guidelines which may have been considered. A reference may be considered by the Examiner for any reason whether or not the citation is in full conformance with the guidelines. A line will be drawn through a citation if it is not in conformance with the guidelines AND has not been considered. A copy of the submitted form, as reviewed by the Examiner, will be returned to the applicant with the next communication. The original of the form will be entered into the application file.

Each citation initialed by the Examiner will be printed on the issued patent in the same manner as references cited by the Examiner on Form PTO-892.

The reference designations "A1," "A2," etc. (referring to Applicant's reference 1, Applicant's reference 2, etc.) will be used by the Examiner in the same manner as Examiner's reference designations "A," "B," "C," etc. on Office Action Form PTO-1142.

W:\15436\247.11\1\TAT0000002176V001.doc

Examiner:

Date Considered:

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

FILED VIA FACSIMILE

PATENT APPLICATION  
Docket No.: 15436 247.11.1

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Hofmeister, et al

Serial No.: 10/697,395

Filed: October 30, 2003

Confirmation No.: 7465

For: AUTOMATIC SELECTION OF DATA  
RATE FOR OPTOELECTRONIC  
DEVICES

Customer No: 022913

Examiner: Kenneth J. Malkowski

RECEIVED  
CENTRAL FAX CENTER

JUN 08 2006

) Art Unit  
) 2633CERTIFICATE OF FACSIMILE TRANSMISSIONMail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

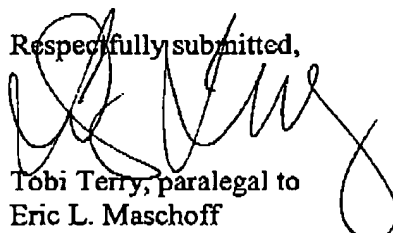
Sir:

I hereby certify that this paper is being transmitted via facsimile at facsimile number (801) 328-1707 to the Patent and Trademark Office at facsimile number (571) 273-8300 on the date shown below.

- Transmittal Letter (2 pages)
- Supplemental Information Disclosure Statement (2 pages)
- PTO Form 1449 listing 1 reference (3 pages)

Dated this 8<sup>th</sup> day of June, 2006.

Respectfully submitted,

  
Tobi Terry, paralegal to  
Eric L. Maschoff

WA15436247.11.1\TAT0000002177V001.doc